

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ANTHONY A. NELSON,

Petitioner,

v.

Case No. 2:06-12175

JOHN PRELESNIK,

Respondent.

ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION

Petitioner Anthony A. Nelson has moved for reconsideration of the court's opinion and judgment dismissing his case for failure to comply with the statute of limitations. Petitioner alleges that he is actually innocent of the offense for which he was convicted (first-degree criminal sexual conduct) and, therefore, he is entitled to equitable tolling of the limitations period.

This District's Local Rules provide that,

[g]enerally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

E.D. Mich. LR 7.1(g)(3).

Petitioner alleges in the pending motion that he was tested for gonorrhea while in custody and determined to be free of the disease. He maintains that he could not have committed a crime involving sexual penetration because the victim was infected with gonorrhea and he is not infected with the highly contagious disease.

The court considered this argument in its opinion and rejected it because it was not new evidence and because it was not proof of actual innocence. Petitioner is raising an issue that was previously presented to, and addressed by, the court, and he has failed to demonstrate that the court was misled by a palpable defect. Accordingly, Petitioner's Motion for Reconsideration [Dkt. #23] is DENIED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: June 14, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, June 14, 2007, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522